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7 *Attorneys for Defendants*

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9 **UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

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11 **FEDERAL TRADE COMMISSION,**

12 **Plaintiff,**

13 **v.**

14 **OMICS GROUP INC., et al.,**

15 **Defendants.**

Case No. 2:16-cv-02022-GMN-VCF

DECLARATION OF D. NEAL  
TOMLINSON IN SUPPORT OF  
OPPOSITION TO PLAINTIFF'S  
MOTION TO DETERMINE THE  
SUFFICIENCY OF ANSWERS TO  
REQUESTS FOR ADMISSION

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17 I, D. Neal Tomlinson, hereby state that I have personal knowledge of the facts set forth  
18 below and am competent to testify about them. If called as a witness, I could and would testify  
19 as follows:

- 20 1. I am over the age of 21. I reside in Las Vegas, Nevada, and am counsel of record for the  
21 Defendants in this action.
- 22 2. I received via email on December 21, 2017 an email from Michael Tankersley with a  
23 document entitled "FTC v OMICS\_Third Requests for Admissions" containing nineteen  
24 numbered requests with fifteen of those requests containing two additional sub-requests.
- 25 3. I received via email on January 31, 2018 an email from Michael Tankersley with a  
26 document entitled "FTC v OMICS\_4th Requests for Admissions" containing 80 separate  
27 requests, with one specifically containing 872 separate urls for Defendants to verify.

- 1 4. I received via email on February 14, 2018 an email from Michael Tankersley with a  
2 document entitled "FTC v OMICS\_5th Request for Admissions" containing an additional  
3 116 separate requests.
- 4 5. During this time, myself and my firm have had numerous communications with  
5 Defendants via email and phone conference to discuss initially the requests, and thereafter  
6 many questions and clarifications posed by Defendants.
- 7 6. Plaintiff scheduled the deposition of Defendant Srinubabu Gedela for March 13, 2018 to  
8 take place via telephone conference wherein Plaintiff's counsel was located in  
9 Washington D.C. and Defendant was located in India.
- 10 7. I travelled from Las Vegas, Nevada to Hyderabad, India for the deposition.
- 11 8. On March 12, 2018 I provided a letter to Mr. Tankersley and Mr. Ashe addressing the  
12 status of each identified issue still outstanding with respect to discovery.
- 13 9. At the time Plaintiff filed the subject Motion, undersigned counsel had been and  
14 continues to work with the Defendants to provide full and detailed responses.
- 15 10. Plaintiff's counsel is fully aware that all Defendants are located in India, and that  
16 language, time zones and geographical barriers have presented significant challenges for  
17 all involved.
- 18 11. Indeed, the deposition of Defendant Srinubabu Gedela highlighted the severity of the  
19 challenges involved, as even the Plaintiff's court reporter described the process as  
20 follows:  
21 As you are aware, this was a difficult deposition. There are some  
22 indiscernible areas where I simply could not make out Dr. Gedela's attempt  
23 to speak English. Being on the phone made the process more difficult, as it  
24 is easier to interrupt and request a restatement and understand a person  
25 when you can see them speak. I am hopeful that Dr. Gedela will make a  
26 thorough review of his transcript and correct any errors that I am extremely  
27 confident were made. I honestly did the best I could, and have had two  
28 other experienced reporters here listen to the audio file and help make the  
transcript as accurate as possible.
12. Based on the above, Plaintiff's counsel has not met its burden to provide the proper  
certification required by court rules, as the parties have never reached an impasse.

1       13. Both Defendants and undersigned counsel have acted in good faith to provide  
2       meaningful discovery responses, have not intentionally caused delay, and at all times  
3       agreed to provide supplemental responses.

4       I declare under penalty of perjury that the statements made in this declaration are true and  
5       correct.

6       Executed this 19<sup>th</sup> day of March, 2018, in Las Vegas, Nevada.

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/s/ D. Neal Tomlinson

D. Neal Tomlinson

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